



# Department of Justice

FOR IMMEDIATE RELEASE  
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## COURT OF APPEALS OVERTURNS DISTRICT COURT'S DECISION IN MICROSOFT CASE

Attorney General Janet Reno and Assistant Attorney General Anne K. Bingaman made the following statements today regarding the U.S. Court of Appeals for the District of Columbia Circuit decision to order entry of last July's consent decree negotiated by the Department and Microsoft Corporation prohibiting certain anticompetitive licensing practices by Microsoft:

### **Attorney General Janet Reno stated:**

"We are gratified by the court's decision. It confirms our own understanding of the appropriate roles of the courts and the Department of Justice in the enforcement of the antitrust laws.

"The Court of Appeals' opinion is based on the fundamental truth that only a prosecutor who has reviewed all of the facts under the applicable law in the course of an investigation can decide which charges or claims are made out at that time by the evidence. The Department has an obligation to enforce the law fairly and fully under the facts known to it and it will continue to discharge that obligation in the highest traditions of the American legal system."

### **Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division, stated:**

"The Court of Appeals' decision clarifies an important area of law, both for the Department of Justice and for private parties who enter into consent decrees with the Department. The opinion handed down today will serve as a precedent and guide for many years in many other situations. We are glad to have the clear exposition this opinion gives of the respective roles of the Department and a federal court in reviewing antitrust consent decrees under the Tunney Act."

The court held that the Tunney Act, which authorizes federal courts to review consent decrees in antitrust cases does not allow judges "to reach beyond the complaint to evaluate claims that the government did not make and to inquire as to why they were not made." In essence, the court concluded, "The Tunney Act

cannot be interpreted as an authorization for a district judge to assume the role of Attorney General."

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